

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 2018

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[Originating in the Committee on Health and Human
Resources; Reported on January 12, 2023]

1 A BILL to amend and reenact §49-4-405 and §49-4-406 of the Code of West Virginia, 1931, as
2 amended, all relating to designating the managed care case coordinator as a member of
3 the multidisciplinary team.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

§49-4-405. Multidisciplinary treatment planning process involving child abuse and neglect; team membership; duties; reports; admissions.

1 (a) Within thirty days of the initiation of a judicial proceeding pursuant to part six, of this
2 article, the department of ~~Health and Human Services~~ shall convene a multidisciplinary treatment
3 team to assess, plan and implement a comprehensive, individualized service plan for children
4 who are victims of abuse or neglect and their families. The multidisciplinary team shall obtain and
5 utilize any assessments for the children or the adult respondents that it deems necessary to assist
6 in the development of that plan.

7 (b) In a case initiated pursuant to part six of this article, the treatment team consists of:

8 (1) The child or family's case manager in the department of ~~Health and Human Resources~~;

9 (2) The adult respondent or respondents;

10 (3) The child's parent or parents, guardians, any copetitioners, custodial relatives of the
11 child, foster or preadoptive parents;

12 (4) Any attorney representing an adult respondent or other member of the treatment team;

13 (5) The child's counsel or the guardian ad litem;

14 (6) The prosecuting attorney or his or her designee;

15 (7) A member of a child advocacy center when the child has been processed through the
16 child advocacy center program or programs or it is otherwise appropriate that a member of the
17 child advocacy center participate;

18 (8) Any court-appointed special advocate assigned to a case;

19 (9) Any other person entitled to notice and the right to be heard;

(10) An appropriate school official; ~~and~~

(11) The managed care case coordinator; and

(12) Any other person or agency representative who may assist in providing recommendations for the particular needs of the child and family, including domestic violence service providers.

The child may participate in multidisciplinary treatment team meetings if the child's participation is deemed appropriate by the multidisciplinary treatment team. Unless otherwise ordered by the court, a party whose parental rights have been terminated and his or her attorney may not be given notice of a multidisciplinary treatment team meeting and does not have the right to participate in any treatment team meeting.

(c) Prior to disposition in each case which a treatment planning team has been convened, the team shall advise the court as to the types of services the team has determined are needed and the type of placement, if any, which will best serve the needs of the child. If the team determines that an out-of-home placement will best serve the needs of the child, the team shall first consider placement with appropriate relatives then with foster care homes, facilities or programs located within the state. The team may only recommend placement in an out-of-state facility if it concludes, after considering the best interests and overall needs of the child, that there are no available and suitable in-state facilities which can satisfactorily meet the specific needs of the child.

(d) The multidisciplinary treatment team shall submit written reports to the court as required by the rules governing this type of proceeding or by the court, and shall meet as often as deemed necessary but at least every three months until the case is dismissed from the docket of the court. The multidisciplinary treatment team shall be available for status conferences and hearings as required by the court.

(e) If a respondent or copetitioner admits the underlying allegations of child abuse or neglect, or both abuse and neglect, in the multidisciplinary treatment planning process, his or her

46 statements may not be used in any subsequent criminal proceeding against him or her, except
47 for perjury or false swearing.

**§49-4-406. Multidisciplinary treatment process for status offenders or delinquents;
requirements; custody; procedure; reports; cooperation; inadmissibility of certain
statements.**

1 (a) When a juvenile is adjudicated as a status offender pursuant to §49-4-711 of this code,
2 the department of ~~Health and Human Resources~~ shall promptly convene a multidisciplinary
3 treatment team and conduct an assessment, utilizing a standard uniform comprehensive
4 assessment instrument or protocol, including a needs assessment, to determine the juvenile's
5 mental and physical condition, maturity and education level, home and family environment,
6 rehabilitative needs and recommended service plan, which shall be provided in writing to the court
7 and team members. Upon completion of the assessment, the treatment team shall prepare and
8 implement a comprehensive, individualized service plan for the juvenile.

9 (b) When a juvenile is adjudicated as a delinquent or has been granted a pre-adjudicatory
10 community supervision period pursuant to §49-4-708 of this code, the court, either upon its own
11 motion or motion of a party, may require the department of ~~Health and Human Resources~~ to
12 convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard
13 uniform comprehensive assessment instrument or protocol, including a needs assessment, to
14 determine the juvenile's mental and physical condition, maturity and education level, home and
15 family environment, rehabilitative needs and recommended service plan, which shall be provided
16 in writing to the court and team members. A referral to the department of ~~Health and Human~~
17 ~~Resources~~ to convene a multidisciplinary treatment team and to conduct such an assessment
18 shall be made when the court is considering placing the juvenile in the department's custody or
19 placing the juvenile out-of-home at the department's expense pursuant to §49-4-714 of this code.
20 In any delinquency proceeding in which the court requires the department of ~~Health and Human~~
21 ~~Resources~~ to convene a multidisciplinary treatment team, the probation officer shall notify the

department at least 15 working days before the court proceeding in order to allow the department sufficient time to convene and develop an individualized service plan for the juvenile.

(c) When a juvenile has been adjudicated and committed to the custody of the Director of the Division of Corrections and Rehabilitation, including those cases in which the juvenile has been committed for examination and diagnosis, or the court considers commitment for examination and diagnosis, the Division of Corrections and Rehabilitation shall promptly convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard uniform comprehensive assessment instrument or protocol, including a needs assessment, to determine the juvenile's mental and physical condition, maturity and education level, home and family environment, rehabilitative needs and recommended service plan. Upon completion of the assessment, the treatment team shall prepare and implement a comprehensive, individualized service plan for the juvenile, which shall be provided in writing to the court and team members. In cases where the juvenile is committed as a post-sentence disposition to the custody of the Division of Corrections and Rehabilitation, the plan shall be reviewed quarterly by the multidisciplinary treatment team. Where a juvenile has been detained in a facility operated by the Division of Corrections and Rehabilitation without an active service plan for more than 60 days, the director of the facility may call a multidisciplinary team meeting to review the case and discuss the status of the service plan.

(d)(1) The rules of juvenile procedure shall govern the procedure for obtaining any assessment of a juvenile, preparing an individualized service plan and submitting the plan and any assessment to the court.

(2) In juvenile proceedings conducted pursuant to §49-4-701 *et seq.* of this code, the following representatives shall serve as members and attend each meeting of the multidisciplinary treatment team, so long as they receive notice at least seven days prior to the meeting:

(A) The juvenile;

(B) The juvenile's case manager in the department of ~~Health and Human Resources~~ or the Division of Corrections and Rehabilitation;

(C) The juvenile's parent, guardian or custodian;

(D) The juvenile's attorney;

(E) Any attorney representing a member of the multidisciplinary treatment team;

(F) The prosecuting attorney or his or her designee;

(G) The county school superintendent or the superintendent's designee;

(H) A treatment or service provider with training and clinical experience coordinating behavioral or mental health treatment; ~~and~~

(I) The managed care case coordinator; and

(J) Any other person or agency representative who may assist in providing recommendations for the particular needs of the juvenile and family, including domestic violence service providers. In delinquency proceedings, the probation officer shall be a member of a multidisciplinary treatment team. When appropriate, the juvenile case manager in the department of ~~Health and Human Resources~~ and the Division of Corrections and Rehabilitation shall cooperate in conducting multidisciplinary treatment team meetings when it is in the juvenile's best interest.

(3) Prior to disposition, in each case in which a treatment planning team has been convened, the team shall advise the court as to the types of services the team has determined are needed and type of placement, if any, which will best serve the needs of the child. If the team determines that an out-of-home placement will best serve the needs of the child, the team shall first consider placement at facilities or programs located within the state. The team may only recommend placement in an out-of-state facility if it concludes, after considering the best interests and overall needs of the child, that there are no available and suitable in-state facilities which can satisfactorily meet the specific needs of the child. The multidisciplinary treatment team shall also

determine and advise the court as to the individual treatment and rehabilitation plan recommended for the child for either out-of-home placement or community supervision. The plan may focus on reducing the likelihood of reoffending, requirements for the child to take responsibility for his or her actions, completion of evidence-based services or programs or any other relevant goal for the child. The plan may also include opportunities to incorporate the family, custodian or guardian into the treatment and rehabilitation process.

(4) The multidisciplinary treatment team shall submit written reports to the court as required by applicable law or by the court, shall meet with the court at least every three months, as long as the juvenile remains in the legal or physical custody of the state, and shall be available for status conferences and hearings as required by the court. The multidisciplinary treatment team shall monitor progress of the plan identified in subdivision (3) of this subsection and review progress of the plan at the regular meetings held at least every three months pursuant to this section, or at shorter intervals, as ordered by the court, and shall report to the court on the progress of the plan or if additional modification is necessary.

(5) In any case in which a juvenile has been placed out of his or her home except for a temporary placement in a shelter or detention center, the multidisciplinary treatment team shall cooperate with the state agency in whose custody the juvenile is placed to develop an after-care plan. The rules of juvenile procedure and §49-4-409 of this code govern the development of an after-care plan for a juvenile, the submission of the plan to the court and any objection to the after-care plan.

(6) If a juvenile respondent admits the underlying allegations of the case initiated pursuant to §49-4-701 through §49-4-725 of this code, in the multidisciplinary treatment planning process, his or her statements may not be used in any juvenile or criminal proceedings against the juvenile, except for perjury or false swearing.

NOTE: The purpose of this bill is to ensure that managed care case coordinators are able to participate in multidisciplinary team meetings.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.